

REMARKS

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-2, 4-13, 15-23, and 25-34 will be pending. By this amendment, claim 8 has been amended. No new matter has been added.

Allowable Subject Matter

It is noted that the rejections of claims 4, 8, 9, 15, 19, 20, 25, 27, 29, and 30 have been withdrawn. Since there are no new rejections regarding these claims, it is assumed that claims 4, 8, 9, 15, 19, 20, 25, 27, 29, and 30 would be allowable if rewritten in independent form including the base claim and any intervening claims.

§103 Rejection of Claims 1-2, 5-7, 11, 22-23, 26, 28, and 32-34

In Section 7 of the Office Action, claims 1-2, 5-7, 11, 22-23, 26, 28, and 32-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kutaragi et al. (U.S. Patent 6,122,739; hereinafter referred to as “Kutaragi”) in view of Jones et al. (U.S. Patent 6,363,164; hereinafter referred to as “Jones”).

In the Background of the Specification, it was indicated, “[t]here have been illegal attempts to reproduce information from non-protected disk-type recording mediums with a special device attached to a disk playback apparatus.” *Background of the Specification, page 2, lines 9-11.*

It was further indicated, “[h]eretofore, it has been customary to read a security code written in a certain area on a protected disk-type recording medium loaded in the disk playback

apparatus thereby to authenticate that protected disk-type recording medium is a legitimate disk. The above special device operates as if it could read a security code though it is in fact incapable of reading the data of the security code, so that it can authenticate a disk-type recording medium which should not be authenticated in reality.” *Background of the Specification, page 2, lines 12-20.*

Accordingly, “[u]sing the above special device, an illegally copied disk-type recording medium which should not be authenticated can be authenticated in an authenticating process when it is to be played back, and can be played back by a disk playback apparatus to which the special device is connected.” *Background of the Specification, page 2, lines 21-25.*

To address the above-described shortcomings of the conventional authentication devices, embodiments of the present invention provide an apparatus and method for effectively preventing the disk-type recording medium which should not be authenticated from being illegally copied. *Specification, page 3, lines 11-21.* For example, method claim 1, as presented herein, recites authenticating a recording medium and a disk playback apparatus, comprising the steps of:

“*performing an absolute authentication process* for authenticating a recording medium with information for authentication being recorded in a predetermined position therein, according to a first rule at a predetermined time, wherein said first rule is that normal authentication is declared in said absolute authentication process if the information for authentication is detected as being recorded in said predetermined position;

executing a program transferred from said recording medium *if normal authentication is declared* in said absolute authenticating process; and

performing an arbitrary authentication process for authenticating a disk playback apparatus according to a second rule at an arbitrary time while executing said program, wherein said second rule is that normal authentication is declared in said arbitrary authentication process if the

information for authentication is not detected in arbitrary positions other than said predetermined position.”

(emphasis added)

Thus, the method includes performing an arbitrary authentication process for authenticating a disk playback apparatus according to a second rule at an arbitrary time while executing said program, wherein said second rule is that normal authentication is declared in said arbitrary authentication process if the information for authentication is not detected in arbitrary positions other than said predetermined position. *See Specification, page 6, line 18 to page 7, line 15 (emphasis added).*

Claim 22 closely parallels, and includes substantially similar limitations as recited in, claim 1. The main difference between claims 1 and 22 is that claim 1 relates to an entertainment apparatus for performing processing operations, comprising various means plus function steps, including: “arbitrary authentication means for performing an arbitrary authentication process for authenticating said entertainment apparatus according to a second rule at an arbitrary time while said program is executing” (emphasis added). This means plus function step is substantially similar to the third step of method claim 1, except that the word “entertainment apparatus” is substituted for “playback apparatus.”

In the Office Action it is stated that Kutaragi discloses performing an arbitrary authentication process for authenticating “a recording medium.” *Office Action, page 3, lines 6-8 from the bottom.* Yet claims 1 and 22 recite an arbitrary authentication process for authenticating “a disk playback apparatus” or “an entertainment apparatus,” not “a recording medium.” According to such a process, it is possible to detect a special device illegally provided in a disk playback apparatus, which allows an illegally copied disk-type recording medium to be played.

See Specification, page 3, lines 1-10. In other words, a disk playback apparatus or an entertainment apparatus can be authenticated.

In the present invention the absolute authentication process is for authenticating a *recording medium*, while the arbitrary authentication process is for authenticating *a disk playback apparatus or an entertainment apparatus*. The disk playback apparatus is not a recording medium, but is an apparatus that plays back a disk-type recording medium. *Specification, page 1, lines 8-9 and 24-25.* An entertainment apparatus uses information reproduced from a disk-type recording medium. *Specification, page 1, lines 9-11.* Thus, an entertainment apparatus is not the recording medium itself.

Therefore, Kutaragi, cited for teaching arbitrary authentication of a recording medium, fails to teach or suggest *performing an arbitrary authentication process for authenticating a disk playback apparatus* according to a second rule at an arbitrary time while executing said program, as recited in claim 1 (emphasis added). Further, Kutaragi fails to teach or suggest *arbitrary authentication means for performing an arbitrary authentication process for authenticating said entertainment apparatus* according to a second rule at an arbitrary time while said program is executing, as recited in claim 22 (emphasis added).

Jones is merely cited for disclosing “while executing said program, wherein said second rule is that normal authentication is declared in said arbitrary authentication process if the information for authentication is detected as being not recorded in arbitrary positions other than said predetermined position.” Accordingly, Kutaragi and Jones, individually or in combination, fail to teach all of the limitations of claims 1 and 22.

Further, the arbitrary authentication process described in claims 1 and 22 is for authenticating a disk playback apparatus or an entertainment apparatus. Therefore, embodiments

of the present invention cannot play a legal recording medium if the illegal special device is provided in a disk playback apparatus. Both Kutaragi and Jones are silent about such an arrangement.

Based on the foregoing discussion, it is submitted that claims 1 and 22 should be allowable over Kutaragi and Jones. Further, since claims 2, 5-7, 11, 23, 26, 28, and 32 depend from one of claims 1 and 22, claims 2, 5-7, 11, 23, 26, 28, and 32 should also be allowable over Kutaragi and Jones.

Claims 33 and 34

Independent claims 33 and 34 describe an arbitrary authentication process for authenticating a “disk playback apparatus,” rather than a “recording medium.” Therefore, based on the foregoing discussion regarding claim 1, claims 33 and 34 should be allowable over Kutaragi. Jones was not cited for disclosing any limitations of claims 33 or 34. Therefore, claims 33 and 34 should be allowable over Kutaragi and Jones.

Accordingly, it is submitted that the rejection of claims 1-2, 5-7, 11, 22-23, 26, 28, and 32-34 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 12, 13, 16, 17, and 21

In Section 8 of the Office Action, claims 12, 13, 16, 17, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Timmermans et al. (U.S. Patent 5,737,286; hereinafter referred to as “Timmermans”) in view of Jones and further in view of Kutaragi.

Based on the foregoing discussion regarding claim 1, and since claim 12 closely parallels, and contains substantially similar limitations as those recited in, claim 1, claim 12 should be

allowable over Kutaragi and Jones. Timmermans was cited for teaching performing an arbitrary authentication process for authenticating said recording medium according to a second rule at an arbitrary time while said program is executing. *Office Action, page 8, lines 2-3 from the bottom (emphasis added)*. Yet as previously discussed with regards to claim 1, the reference (in this case Timmermans) is cited for disclosing performing authentication of a “recording medium,” rather than a “disk playback apparatus,” as claimed. Therefore, Timmermans fails to teach arbitrary authentication means for performing an arbitrary authentication process for authenticating said disk playback apparatus according to a second rule at an arbitrary time while said program is executing, as recited in claim 12 (emphasis added). Thus, Timmermans, Kutaragi and Jones, individually or in combination, fail to teach or suggest all of the limitations of claim 12.

Accordingly, claim 12 should be allowable over Timmermans, Kutaragi and Jones. Further, since claims 13, 16, 17, and 21 depend from claim 12, claims 13, 16, 17, and 21 should also be allowable over Timmermans, Kutaragi and Jones.

Accordingly, it is submitted that the rejection of claims 12, 13, 16, 17, and 21 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 10 and 31

In Section 9 of the Office Action, claims 10 and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kutaragi in view of Jones and further in view of Timmermans.

Based on the foregoing discussion regarding claims 1 and 22, and since claims 10 and 31 depend from claims 1 and 22, respectively, claims 10 and 31 should also be allowable over Kutaragi and Jones. Timmermans was merely cited for disclosing forcibly ending a processing being executed if either said absolute authentication process or said arbitrary authentication process does not result in normal authentication. *Office Action, section 9, page 11*. Therefore, claims 10 and 31 should be allowable over the combination of Kutaragi, Jones and Timmermans.

Accordingly, it is submitted that the rejection of claims 10 and 31 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claim 18

In Section 10 of the Office Action, claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Timmermans in view of Jones and further in view of Kutaragi.

Based on the foregoing discussion regarding claim 12, and since claim 18 depends from claim 12, claim 18 should also be allowable over the cited prior art references.

Accordingly, it is submitted that the rejection of claim 18 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

Conclusion

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1-2, 4-13, 15-23, and 25-34 is respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over

the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

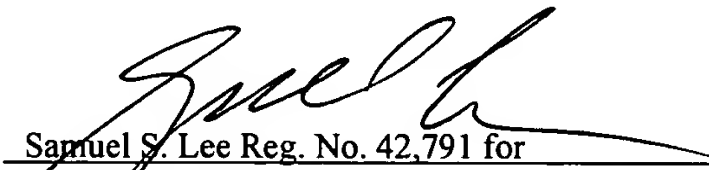
In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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